



Town of Southern Shores

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Council Meeting

September 1, 2009

7:00 p.m.-Pitts Center

The Southern Shores Town Council met on September 1, 2009 at the Pitts Center.

The following Council Members were present: Mayor Don Smith, Brian McDonald, Jodi Hess, Kevin Stroud and Jim Pfizenmayer.

Also present were: Charlie Read, Town Manager, Robert Hobbs acting Town Attorney and Carrie Gordin, Town Clerk. Ben Gallop, Town Attorney absent.

Mayor Smith called the meeting to order at 7:00 p.m. He introduced Robert Hobbs, attorney. Mayor Smith led the Pledge of Allegiance. He held a moment of silence for two of the Town's long time resident families Pete Macfarlane whose wife Betty passed away and for the family of Peter Ferguson who was a long time resident and who was instrumental in organizing the Southern Shores Boat Club as well as for all the men and women serving around the world.

APPROVAL OF AGENDA

Council Member Hess moved to approve the agenda as presented. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

GENERAL PUBLIC COMMENT-None

APPROVAL OF MINUTES-August 4, 2009

Council Member McDonald moved to approve August 4, 2009 minutes as presented. Mayor Smith seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

CONSENT AGENDA - None

REPORTS

Planning Board/Planning Advisory Group (PAG) August 17, 2009

Nancy Wendt stated no Planning Board meeting was held for the month of August. She presented the PAG report. She stated the Wireless Committee will submit a draft ordinance at the September Council meeting. She stated she received some feedback from some Council members and the Town attorney following the presentation made by the Transportation Group at the last Council meeting. She requested Council place on the September 22 Council agenda a follow-up item, Transportation Implementation Recommendations to address those additional issues. Council agreed to place as an agenda item.

[Clerk's Note: A copy of the Planning Advisory Group report is hereby attached as Exhibit A].

Southern Shores Volunteer Fire Department-None

Police Department

Police Chief Kole provided the monthly report. He stated there has been an increase in vehicle burglaries and reminded everyone they should lock their cars and houses. He stated the increase of burglaries is not just isolated to Southern Shores but up and down the beach.

Mayor Smith stated we can put information on the broadcast email reminding people to lock their cars and doors.

Southern Shores Civic Association

Dan Shields, president, announced the SSCA picnic will be held September 26 at the North Marina.

Chicahauk Property Owners Association-None

Canal Maintenance Dredging Project Update

Tom Bennett, project manager, reported the Town is still waiting for the final permit from the Army Corps of Engineer. He stated the pre-bid conference was held on Monday. He stated initially twenty-one bidders had shown interest and seven dredging contractors, five general contractors and one Geotechnical person were in attendance. He reported Joe Anlauf, town engineer; provided a Power Point presentation and then site visits were made. He stated there is an alternate methodology for the de-watering process of the spoil that the Town is looking into. He stated in discussing the advantages of using this process there should be a reduction in cost and less destruction to the community due to the location being at one place; less area of the canals having pipes and for this application and future applications you won't need a large spoil site, however; the process will be noisier and there will be more activity. He stated the bid opening is scheduled for September 21 (three bids are required) and upon review of the bids over a 3-5 day period a selection for the lowest responsible bidder will be selected. He stated a public information meeting is scheduled to follow the Council's September 22 Council meeting. He provided a website address (www.deltank.com) for the public to see the mentioned de-watering process. The Town Manager stated this is not an endorsement of any one product since there are other companies with similar types of process but to allow the public to see the equipment.

OLD BUSINESS

Ordinance 2009-09-01 Amendment of Town Code-Chapter 14-Fire Prevention/Protection

Mayor Smith stated Council reviewed the draft document at the September 25 Council meeting and certain issues were addressed.

Council Member Hess moved to adopt Ordinance 2009-09-01 amendment of Town Code-Chapter 14-Fire Prevention/Protection as presented. Mayor Smith seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

[Clerk's Note: A copy of Ordinance 2009-09-01 Amendment of Town Code-Chapter 14-Fire Prevention/Protection is hereby attached as Exhibit B].

New Business –None

Other Items

Town Manager

The Town Manager announced he and his wife, Alice, are celebrating their 37th wedding anniversary and would be going to dinner following the meeting.

Town Attorney-None

Mayor

Mayor Smith wished them a happy 37th anniversary.

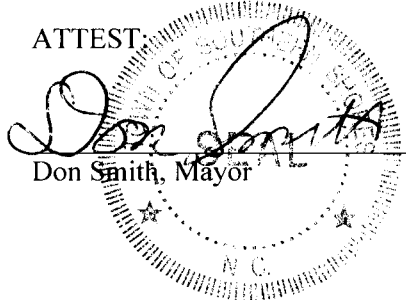
Council

Council Member McDonald stated as serving on the Dare County Tourist Bureau as the assistant treasurer and as a steering committee member he announced they have hired a new director who comes from the Wilmington area.

GENERAL PUBLIC COMMENT-None

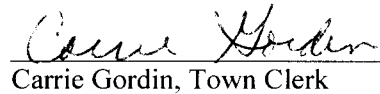
Hearing no other business Mayor Smith moved to adjourn at 7:20 p.m. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

ATTEST:



Don Smith, Mayor

Respectfully submitted:



Carrie Gordin, Town Clerk

Exhibit A

To: Southern Shores Town Council (Don Smith, Brian MacDonald, Jodi Hess, Jim Pfizenmayer, Kevin Stroud); Town Attorney (Ben Gallop)

Copies: Town Manager (Charlie Read)

Town Staff (Pat Forrester, Carrie Gordon, Alvin Rountree, Merrie Smith, Bonnie Swain)

Planning Board (Mike Florez, Bill Gleason, Larry Lawhon, Bob Palombo, Jay Russell, Nancy Wendt, Sam Williams and ETJ Rep, Ed Overton)

From: Nancy Wendt, Planning Board Chair

Date: August 28, 2009

Re: Recap, PAG Working Session August 17, 2009

PAG MEETING RECAP AUGUST 17, 2009

The Planning Advisory Group working session convened at 7:00pm. Planning Board Members Nancy Wendt, Jay Russell, Mike Florez, Bob Palombo, Sam Williams and alternate members Bill Gleason and Larry Lawhon were present. Also in attendance was Executive Assistant Merrie Smith.

WIRELESS FACILITIES PROJECT

Larry Lawhon reported that the Town attorney is working on the detailed text of the Proposed Wireless Ordinance and plans to have his recommendations ready for the Planning Board to review shortly. Target dates for next steps are as follows:

1. September 8, 2009 – PAG review of final Proposed Wireless Ordinance text.
2. September 16, 2009 – Wireless Ordinance Pre-Public-Hearing Community Workshop to present the final DRAFT Ordinance to the community for discussion and comment.
3. September 21, 2009 – Planning Board final discussion and review to address any issues that arise from the Pre-Public-Hearing Community Workshop.
4. September 22, 2009 – Final Proposed Ordinance text to Town Council/Town Attorney.
5. October 6, 2009 – Town Council Public Hearing on Proposed Wireless Ordinance.
6. October 6 or October 27 – Town Council vote on Proposed Wireless Ordinance.

Larry reported that during Hurricane Katrina the towers that failed were guyed or lattice structures. Monopole towers bent but they did not fail. This finding reaffirms the Wireless Team's recommendation that only monopole design towers be permitted in Southern Shores. The PAG discussed the proposed wind loading standard and agreed that the state standard of 130 mph is sufficient for monopole towers.

WIND GENERATION FACILITIES PROJECT

Mike Florez, project lead, reported that the kickoff meeting for the wind project was held on July 28, 2009. The Wind Generation Project Team consists of Mike Florez, Joe Archibald, Ed Cowell, John Gaw, Jim Millis, Merrie Smith and Nancy Wendt. At the next project team meeting scheduled for September 3 at 3:00pm the group will develop a project plan, task list with assignments and a schedule.

Mike reminded the PAG that wind generation facilities are currently banned from all zoning districts within Southern Shores. The Town Ordinance passed July 7, 1998 stipulates the following:

1. "Windmills and wind driven electric generators are excluded from the definition of Accessory Use."
2. "Windmills and wind driven generators used for the generation of electric power are prohibited in all zoning districts."

The focus of this project is Southern Shores land use policy as it pertains to wind generation facilities (e.g., wind turbines, supporting towers, energy storage equipment and energy distribution infrastructure.)

The policy questions for the Wind Generation Facilities Project are:

1. Should wind facilities be permitted within Southern Shores? Why / Why Not?
2. If so, where within Southern Shores should wind facilities be permitted and where not?
3. If so, should wind facilities be a permitted use by right or a conditional use? And, if a conditional use, what conditions should apply to them?

In short, this project will assess the potential demand for different types of wind generation facilities, the possible negative impacts that the development of these facilities could have and how these impacts need to be mitigated if these facilities are permitted in Southern Shores. This project is **NOT** concerned with analyzing the state of global warming or the economics of alternative energy generation.

TRANSPORTATION PLAN PROJECT

Bob Palombo reconfirmed that the goal of the Transportation Plan is to **optimize the whole transportation system to ensure the safe and efficient movement of pedestrians and vehicles within and through Southern Shores**. The Transportation Team proposes that the Town Council and Town staff achieve this goal through the enforcement of construction, design and performance standards for all roadways and pathways.

Bob reviewed the material that he prepared to walk the Town Council through the proposed action items associated with each of the transportation policies that the Council has already approved plus the policy on low speed vehicles that has been re-written. The team offered comments and suggested improvements which Bob will incorporate prior to the Town Council meeting on August 25, 2009.

As requested, the PAG discussed the possibility of making Hickory Trail one way to reduce seasonal cut through traffic issues on the portion of Hickory near its intersection with East

Dogwood. The PAG unanimously reaffirmed the need to manage the Town's transportation infrastructure as one integrated system.

The PAG recommends that Council not approve stand alone changes such as making a portion of Hickory one way. If Council feels it is necessary to address the cut through traffic issue, appropriate remedies need to be developed on a system wide basis to avoid merely shifting a problem from one part of the system to another.

The PAG recommends that every transportation related project (i.e., roads maintenance, pathway construction, traffic regulation change, etc.) be evaluated for its potential impact on all eight transportation system attributes (i.e., EMS response times, noise/pollution, stormwater management, pedestrian safety, access restrictions, volume control, aesthetics, and traffic calming) before it is approved or funded. If any transportation action has potentially negative impacts it should not be approved unless the negative impacts can and will be fully mitigated prior to or during the project implementation. Next steps include the August 25th Council presentation on the action items and correction of the Southern Shores transportation system map to reflect the approved road classifications.

STORMWATER PLAN PROJECT

Jay Russell, Stormwater Management team lead, reported that he is working with both Robert Mc Clendon and Joe Anlauf, both participants in the original research, to turn the Stormwater Policy Advisory Committee's findings and recommendations into a proposed Stormwater Plan and Stormwater Guidelines.

Jay reminded the PAG that when the original Stormwater Management Report was given to the Town in March 2007, both the Town Manager and the Code Enforcement Officer felt that enforcement of the NC stormwater regulations and the Southern Shores Nuisance Ordinances were enough to control stormwater. As a result stormwater has been handled as part of routine inspections since then.

Jay reviewed a list of stormwater guidelines that were developed based on Quible & Associates' water basin data for Southern Shores. The technical specificity of these guidelines is needed to ensure that the underlying causes of stormwater problems are addressed not just their symptoms. Jay will review these guidelines with Robert McClendon, Alvin Rountree and Joe Anlauf and incorporate their comments and suggestions before he brings a final DRAFT back to the PAG/Planning Board in October.

CAMA LUP UPDATE PROJECT

Sam Williams is currently working on the futures section and expects to have a draft ready for review shortly. He will circulate the draft to the Planning Board / PAG and the Town Council for comments as soon as it is ready.

UPCOMING MEETINGS & AGENDAS:

PAG working session September 8, 2009 at 7pm at the Pitts Center

Transportation Implementation Plan (Bob Palombo)

- Implementation steps for Town Council based on Ben Gallop's suggestions

CAMA LUP Plan (Sam Williams)

- Review DRAFT of Futures Section

- Review new / revised map work

Planning Board meeting September 21, 2009 at 7pm at the Pitts Center

- Permit Applications as required
- DRAFT Wireless Ordinance (Larry Lawhon)

PAG working session October 5, 2009 at 7pm at the Pitts Center

Stormwater Management Project (Jay Russell)

- Proposed Stormwater Plan & Guidelines (Jay Russell)

Meeting Adjourned 8:55 PM

Exhibit B

Ordinance 2009-09-01

**AN ORDINANCE OF THE SOUTHERN SHORES TOWN COUNCIL
AMENDING CHAPTER 14 FIRE PREVENTION AND PROTECTION**

Article I: Purpose

The purpose of this Ordinance is to amend the Town Code of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on October 2, 1979 and subsequently amended.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Zoning Ordinance language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language.

Article III. Amendment of Chapter 14 of the Town Code of Southern Shores

NOW THEREFORE, BE IT ORDAINED by the Town Council for the Town of Southern Shores, North Carolina that Chapter 14 of the Code of Ordinances of the Town of Southern Shores, North Carolina as now exists is hereby amended as follows:

Chapter 14

FIRE PREVENTION AND PROTECTION

* **Cross References:** Administration, Ch. 2; motor vehicles and traffic, Ch.20; solid waste, Ch. 26; duties of police officers, § 18-5; nuisances, § 22-39 et seq.; camping, § 22-62 et seq.

State Law References: Fire protection generally, G.S. Ch. 69; fire protection in municipalities, G.S. 160A-291 et seq.; firemen's relief fund, G.S. Ch. 118 and G.S. 160A-163; fire escapes, G.S. 69-8 et seq.; authority of firemen, G.S. 69-39; setting fires unlawfully, G.S. 14-136 et seq.

ARTICLE I. IN GENERAL

Sec 14-1. Combating fire and related emergencies.

The Town is authorized to contract with and appropriate money to a Volunteer Fire Department. (G.S. 160A-20.1)

(a) The fire chief or other fire official conducting operations in connection with the extinguishment and control of any fire, explosion or other emergency shall have full power and authority to direct all operations of fire extinguishment or control and to take the necessary precautions to save life, protect property and prevent further injury or damage. In the pursuit of such operation, including the investigation of the cause of such emergency, the fire official may control or prohibit the approach to the scene of such emergency by any vehicle, vessel or thing and all persons.

(b) The fire chief or other fire official in charge of an emergency scene shall have the authority to establish fire line barriers to control access in the vicinity of such emergency and to place, or cause to be placed, ropes, guards, barricades, or other obstructions across any street or alley to delineate such fire barrier. No person, except as authorized by the fire official in charge of the emergency, may cross such fire line barriers.

(c) The fire chief or other fire official in charge of an emergency scene ~~and the fire marshal~~ may issue passes entitling the holders to cross fire line barriers. Such passes shall not authorize trespass at the scene of an emergency. Credentials which clearly establish the authority and identity of the holder thereof to enter the premises, ~~whether or not issued by one of the above officials,~~ may be honored by the fire official in charge. ~~of an emergency scene if concurred with by the person in charge of the premises involved in the emergency.~~ (Ord. No. 83-0035, § 9(1--3), 6-7-83)

Sec. 14-2. Fire investigations.

The fire department chief or his designee is authorized to investigate the cause, origin and circumstances of every fire occurring in the town in which property has been destroyed or damaged and shall specifically make investigation whether the fire was the result of carelessness or design. The chief shall comply with the procedures of investigating and reporting fires as detailed in the General Statutes G.S. 69-1 through 69-3.1 and 143A-52.
(Ord. No. 83-0035, § 9(d), 6-7-83)

Sec. 14-3. Authority of firefighters.

(a) Members of the fire department shall have authority to do all acts reasonably necessary to extinguish fires and protect life and property from fire.

(b) No person except a person authorized by the fire official in charge of an emergency scene or a public officer acting within the scope of public duty shall remove, unlock, destroy or tamper with or otherwise molest in any manner any locked gate, door or barricade, chain, enclosure, sign, tag or seal which has been lawfully installed by the fire department or by its order or under its control.
(Ord. No. 83-0035, § 10, 6-7-83)

State Law References: Similar provisions, G.S. 20-157.

Sec. 14-4. Automatic burglar, fire alarms.

(a) *Definitions.* For the purpose of this section, the following words and phrases are defined:

(1) *Alarm system business.* Any person that sells or leases and installs, services or maintains automatic protection devices, signaling devices or automatic protection systems.

(2) *Automatic protection device.* Any mechanical or electrically-operated device designed to monitor and/or detect an emergency situation.

(3) *Automatic protection system.* Any mechanical or electrically operated installation consisting of an automatic protection device or devices, a signaling device which transmits a warning signal by any means to an off-premises location.

(4) *Emergency situation.* A fire, unauthorized intrusion, criminal activity, automobile accident, medical emergency, hurricane evacuation, or similar emergency situation requiring prompt, official response to protect or assist individuals or property.

(5) *False alarm.* A visual, electronic, and/or audible signal transmitted by a signaling device which indicates the existence of an emergency situation, when in fact, no such emergency situation exists.

(6) *Signaling device.* A signaling device is an electrically-operated instrument which automatically transmits a voice alarm or electronic pulse over regular or leased telephone lines upon detection of an emergency situation.

(b) *Automatic protection system permits*

(1) *Required.* No automatic protection system which utilizes a signaling device shall be installed until a permit has been obtained in the name of the owner of the premises by either the owner of the premises or an alarm system business which services or maintains the automatic protection system.

Exception: One and two family dwellings.

(2) *Applications.* Applications for permits shall be submitted to the town ~~clerk~~ code enforcement office on a form supplied by the town and shall include, but not be limited to the following information: The name, address, and telephone number of the business or premises where the system will be installed, and the type of signaling device installed. Permit applications shall be submitted by the alarm system business or property owner in the name of the owner of the business or premises where the system is to be installed. The permits shall contain the following "hold harmless" statement:

"The owner of the premises for which the permit is issued, by his acceptance thereof, agrees for himself, his lessees, agents, heirs, successors and assigns that for so long as an automatic protection system is installed on the premises he shall hold the Town of Southern Shores harmless and the Town of Southern Shores, its agents and employees and the fire department and its members shall not be liable for any damage to the premises caused by the entry of any member of the Southern Shores police department or the fire department or its members in response to an alarm initiated by the automatic protection system."

(3) *Approval.* The ~~chief of police, or the fire marshal, inspector~~ whichever is appropriate, shall approve applications for a permit required by this section if he finds that:

- (a) The proposed use of the automatic protection system to transmit a signal message or warning to a designated communications center telephone line will not interfere with the orderly conduct of the center's business;
- (b) The automatic protection system is to be installed, serviced and maintained by an alarm system business which maintains a service organization capable of promptly and effectively repairing, maintaining or otherwise servicing the automatic alarm system sold or leased by it;

and

- (c) ~~A burglar~~ The alarm shall ~~is will be~~ installed by an alarm system business, licensed pursuant to Chapter 74D of the General Statutes.
- (4) *Issuance.* Upon approval of the application for a permit by ~~the chief of police or the fire marshal, whichever is appropriate~~ inspector, the permit shall be issued in the name of the owner of the Business or premises.
- (5) *Right of inspection.* The ~~chief of police and fire marshal, or their designee,~~ inspector shall have the right to inspect any automatic protection system on the premises where it is installed at reasonable times.
- (6) *Restricted numbers.* It shall be unlawful for any person to install, maintain, or operate an automatic protection system, containing an off-premises signaling device, where the signal is transmitted to any Dare County emergency dispatch telephone number. ~~except those designated on the permit issued under the provisions of this section.~~
- (7) *Revocation.* The ~~chief of police or the fire marshal~~ inspector, whichever is appropriate, may revoke or suspend any permit issued pursuant to the provisions of this section (after giving written notice, by certified mail, to the permit holder and an opportunity for the permit holder to be heard) if he determines the automatic protection system under the permit has been installed or operated in violation of the provisions of this section.
- (8) *Appeal.* A permit holder shall have the right to appeal any determination or decision of the ~~chief of police or fire marshal~~ inspector to revoke a permit to the town ~~council~~ manager.
- (c) *Uniform monitoring system.* The town may require all automatic protection systems to be compatible with a uniform monitoring system designed to receive visual and/or audible signals over a signal line or by electronic transmission.
- (d) *False alarms.* Each person holding a permit for an automatic protection system shall be responsible for any false alarm transmitted by the system.
- (e) *Revocation of permits.* The town shall investigate and maintain a record of all false alarms so transmitted and, pursuant to the required notice and opportunity to be heard, the town may revoke or suspend the permit for the operation of any automatic protection system involved in the transmission of services.
- (f) *Liability of town limited.* The town assumes no liability for any defects in operation of automatic protection systems nor for any failure or neglect to respond appropriately upon receipt of an alarm from such a source, nor for the failure or neglect of any person in connection with the installation and operation of equipment, the transmission of alarm signals, and pre-recorded alarm messages or the relaying of such signals and messages.

~~Neither the town, the police department, the fire department nor any member thereof acting in his official capacity shall be liable for damage to any premises caused by entry to the premises in response to an alarm generated by an automatic protection system.~~

(Ord. No. 83-0035, § 11, 6-7-83)

Cross References: Buildings, § 6-1 et seq.

State Law References: Authority for above section, G.S. 74D-11(c).

Sec.14.5. Fire Hydrants.

The fire chief shall submit a yearly report to the Town on the conditions of all hydrants, based on an annual flow test and an indication of potential problems due to lack of water for the fire loads present in the town based on the requirements of Table B 105 of the North Carolina Fire Prevention Code.

Secs. 14.6—14-26. Reserved

ARTICLE II. FIRE PREVENTION

DIVISION I. GENERALLY

Sec. 14.-27. Definitions.

The following words, terms and phrases, when used in this division or the code adopted in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Bureau of fire prevention: The fire marshal and the chief of police.~~

Corporation council: The town attorney of Southern Shores.

Chief: The chief of the Southern Shores fire department.

~~Fire marshal: The individual appointed by the Southern Shores Town Council. Inspector. Those individuals sworn by the Southern Shores town clerk who hold valid certificates issued by the North Carolina Code Officials Qualification Board.~~

Municipality or town: The Town of Southern Shores and the areas of extraterritorial jurisdiction. (Ord. No. 83-0035, 3, 6-7-83)

Sec..14-28. Fire prevention code adopted.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosions, the town council hereby adopts the North Carolina State Building Code: ~~Volume 4, Fire Prevention Code and Appendices~~, as amended. (Ord. of 12-1-98, Pt. I)

Editors Note: An Ordinance of Dec. 1, 1998, Pt. I, repealed former § 4-22 and enacted a new § 4-22 as set out herein. The former section pertained to violations and derived from Ord. No. 83-0035, § 12, adopted June 7, 1983.

Sec.14-29. Applicability.

~~The provisions of the fire prevention code shall apply to all buildings, structures, premises, and conditions that pose danger of fires, explosions, or related hazards within this jurisdiction, except as provided in Section 103 "Exceptions to Applicability" of the Fire Prevention Code. The provisions of this Code shall apply equally to existing as well as new buildings, structures, premises, and conditions except that existing buildings, structures, premises, and conditions, which complied with the minimum safety standards of the code in effect at the time of construction or installation and which have been properly maintained shall be deemed as complying with this Code. Provided, however, as to existing buildings, those violations to the technical provisions of the code which create an imminent safety to life hazards and/or which may create delays in the exiting of the building's occupants are required to be corrected.~~

~~When the present building code requires certain safety to life requirements for existing buildings, those requirements shall apply.~~

~~(Ord. of 12-1-98, Pt. I)~~

~~Editors Note: An Ordinance of Dec. 1, 1998, Pt. I, repealed former § 4-23 and enacted a new § 4-23 as set out herein. The *~~As defined in Chapter I or the North Carolina Building Code: Fire Prevention Code

Cross References: Use of explosives, etc., § 22-4.

Sec. 14-30. Fire official to enforce.

The town fire ~~marshal~~inspector, as authorized by the town, shall be the officer charged with the administration and enforcement of the fire prevention code. ~~All persons empowered with the administration and enforcement of this Code shall possess an appropriate valid certificate issued by the North Carolina Code Officials Qualification Board.~~

(Ord. No. 83-0035, § 2, 6-7-83; Ord. of 12-1-98, Pt. I)

Editors Note: An Ordinance of Dec. 1, 1998, Pt. I, repealed former § 4-24 and enacted a new § 4-24 as set out herein. The former section pertained to enforcement and derived from Ord. No. 83-0035, § 2, adopted June 7, 1983.

Sec. 14-31. Permits.

A person, firm, or corporation shall not maintain, store, or handle materials or conduct processes which produce conditions hazardous to life or property, or install equipment used in connection with such activities without first obtaining a permit from the fire ~~marshal~~inspector. The fire ~~marshal~~inspector, in the discharge of his duties, may request and receive the assistance and cooperation of other town officials. (Ord. of 12-1-98, Pt. I)

Sec. 14-32. Violations.

Any person who shall violate or fail to comply with any provision of this chapter or of the North Carolina State Building Code: ~~Volume V~~, Fire Prevention Code, as adopted, amended, or augmented by this chapter, or who shall violate or fail to comply with any order made under this chapter or the North Carolina State Building Code, or who shall build in violation of any detailed statement of specifications or plans submitted under this chapter or the North Carolina State Building Code: ~~Volume V~~, Fire Prevention Code, or any certificate or permit issued thereunder, shall subject the violator to civil penalties in accordance with section 1-6(d) and other applicable penalties as provided in section 1-6 of the Town Code of Ordinances.

(Ord. of 12-1-98, Pt. I)

Sec. 14-33. Establishment of limits.

(a) Storage of explosives and blasting agents. ~~The limits referred to in Section 12.5b of the fire prevention code adopted in this division, in which storage of explosives and blasting agents is prohibited, are hereby established as all places~~ within the corporate limits of the town.

Exceptions:

- (1) Those exceptions listed in the North Carolina Fire Prevention Code, Section 3301.1
- (2) Small quantities of black powder or smokeless powder in accordance with Section 3306.4
- (3) Fireworks in accordance with GS 14-414.
- (4) Fireworks displays in accordance with Section 3308.

(b) Motor vehicle routes for transporting explosives and blasting agents. ~~The routes referred to in Section 12.7o of the fire prevention code for vehicles transporting explosives and blasting agents~~ are

hereby established as follows: ~~US 158, SR 1200, SR 1203, and Ocean Boulevard between US 158 and SR 1200~~ NC 12.

(c) ~~Manufacture storage of fireworks. The limits referred to in Section 13.3a of the fire prevention code, in which manufacture~~ and storage of fireworks is prohibited, ~~are hereby established as all places~~ within the corporate limits of the town.

(d) ~~Storage of flammable liquids in outside aboveground tanks. The limits referred to in Section 16.22a of the fire prevention code, in which storage of flammable liquids in outside aboveground tanks~~ is prohibited, ~~are hereby established as all places~~ within the corporate limits of the town except that: Tanks conforming with National Fire Protection Association Standard No. 30 (The Flammable and Combustible Liquids Code), being particularly the current edition and any amendments thereto, may be used to store flammable liquids needed for cooking or to heat and cool those businesses and residences permitted by town ordinances, provided the tank(s) ~~are registered with the~~ have been issued a permit by the town.

(e) ~~New bulk plants, terminals. The limits referred to in Section 16.61 of the fire prevention code, in which new bulk plants or terminals for flammable or combustible liquids~~ are prohibited, ~~are hereby established as follows: Any place~~ within the corporate limits of the town.

(f) ~~Motor vehicle routes transporting hazardous chemicals or other dangerous articles. The routes referred to in Section 20.14 of the fire prevention code~~ for vehicles transporting hazardous chemicals and other dangerous articles are hereby established as follows: ~~US 158, SR 1200, SR 1203 and Ocean Boulevard between US 158 and SR 1200.~~ NC 12.

(g) ~~Bulk storage of liquefied petroleum gases. The limits referred to in Section 21.6a of the fire prevention code in which bulk storage~~ or liquefied petroleum gas is ~~restricted, are hereby established as all places~~ prohibited within the corporate limits of the town except that: Tanks conforming with National Fire Protection Association Standard No. 58 (The Standard for the Storage and Handling of Liquefied Petroleum Gases), being particularly the current edition and any amendments thereto, may be used to store liquefied petroleum gases used for cooking or to heat and cool those businesses and residences permitted by municipal ordinances, ~~provided tanks are registered with the town.~~

(Ord. No. 83-0035, § 4, 6-7-83)

Sec. 14-34. Establishment of fire lanes.

~~The fire lanes referred to in Section 28.16 of the fire prevention code are hereby established as follows: Fire lanes, twenty (20) feet in width, shall be provided for all buildings which are set back more than one hundred fifty (150) feet from a public road. There shall be a turnaround at the closed end of dead-ended fire lanes at least ninety (90) feet in diameter with the closest part of the turnaround, at least, twenty-five (25) feet from any building. Fire lanes shall conform to the provisions of the North Carolina Building Code; Fire Prevention Code.~~

(Ord. No. 83-0035, § 7, 6-7-83)

Cross References: Stopping, standing and parking, § 20-143 et seq.

Sec. 14-35. Inspections.

(a) ~~Inspection of premises. The fire marshal, or his designee, inspector~~ has the right at all reasonable hours, for the purpose of examination, to enter into and upon all commercial and public buildings and premises within the town. When any such officer shall find in any building or upon any premises combustible material or inflammable conditions dangerous to the safety of such buildings or premises, he shall order the same to be removed or remedied, and this order shall be complied with by the

owner or occupant of such buildings or premises. The owner or occupant may, within twenty-four (24) hours, appeal to the state commission of insurance from the order.

Any application for, or acceptance of, any permit requested or issued pursuant to this fire code constitutes agreement and consent by the person making the application and accepting the permit to allow the fire inspector to enter the premises at any reasonable time to conduct such inspections.

~~(b) — Modifications. The fire marshal shall have the power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the intent of the code shall be observed, public safety assured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the fire marshal thereon shall be entered upon the records of the town and a signed copy shall be furnished the applicant.~~

~~(e) (b) Appeals. Whenever the fire marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant is permitted to appeal from the decision of the fire marshal to the town council within thirty (30) days from the date of the decision appealed.~~ Unless otherwise provided by law, appeals from any order, decision or determination by a member of the inspection department pertaining to the State Building Code or the North Carolina Fire Prevention Code or other State building laws shall be taken to the Commissioner of Insurance or his designee or other official specified in G.S. 143-139, by filing a written notice with him and the inspections department within ten (10) days after the order, decision or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. NC Administration & Enforcement Code 160A-434)

~~(d) (c) Warrants for inspections.~~ Warrants to carry out inspection shall be issued and carried out as specified in G.S. 15-27.2.

(Ord. No. 83-0035, § 6, 6-7-83)

State Law References: Inspection of premises, dangerous material removed, G.S. 69-4.

(d) Schedule for inspections.

The fire inspector will conduct periodic inspections of all structures which may pose danger of fire, explosion or related hazards. Such inspections will be composed of, but not limited to, prevention, detection, evacuation, fire containment and extinguishing systems. Inspections will be conducted at a minimum of annually for assembly, every two years or every three years depending on occupancy as outlined in Section 106 of the North Carolina Building Code: Fire Prevention Code.

Exception: one and two family dwellings.

(G.S. 153A – 351 and 160A – 351)

(e) Hazard mitigation.

Weeds, grass, vines or other growth that is capable of being ignited and endangers property shall be cut down and removed by the owner or occupant of the lot, whether improved or not. Annually the fire chief shall assess the Town's susceptibility to wildfire per the Town Hazard Mitigation Plan and submit a report to the Town listing lots and areas that have such combustible accumulations.

Sec. 14-36. Fire limits.

(a) A Fire District (also known as Primary Fire Limit) is hereby established and defined. This Fire District is the Fire District referenced in Chapter 3, Volume I of the North Carolina State

Building Code. The Fire District is shown on a map entitled "Town of Southern Shores, Fire District Overlay", which is hereby adopted, and which shall be maintained by the town clerk. In the event of a conflict between the written description of the Fire District boundaries and the map, the written description of the Fire District boundaries and the map, the written description shall prevail.

(b) The Fire District is defined as the area within the following boundaries: south of residential Block 176, Southern Shores; west of ~~easement of~~ public right of way of Juniper Trail; east of ~~Frank Stone's~~ that parcel of land now or formerly known as number 5655 US HWY 158; north of ~~easement~~ public right of way of US Hwy 158 and north of land parcels ~~of 5425 First Union Bank, 5415 Soot Slayers, 5405 Gulf Stream Graphics, 1 Juniper Trail and the 5400~~ now or formerly known as Wachovia Bank and East Carolina Bank, such area being generally known as The Marketplace Shopping Center. Building restrictions and exceptions thereto shall be as set forth in ~~Chapter 3, Volume I~~ Appendix D 101.1 of the North Carolina State Building Code.

(Ord. No. 83-0035, § 7, 6-7-83; Ord of 7-5-94, Pts. I, II)

Cross References: Buildings, § 6-1 et seq.

State Law References: Fire limits, G.S. 160A-435 et seq.

Sec. 14-37. General regulations.

~~(a) — New materials, processes or occupancies which require permits. The mayor, building inspector and fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in said code. The fire marshal shall post such list in a conspicuous place in the town hall and distribute copies thereof to interested persons.~~

~~(b)~~ (a) Fire extinguishing equipment. All buildings used for public assembly and commercial buildings must have adequate fire extinguishers or an automatic fire extinguishing system as set forth in NFPA standards and as approved by the fire ~~marshal~~ inspector. The fire ~~marshal~~ inspector shall be notified by the owner or user of an automatic fire extinguishing system of its becoming inoperable or taken out of service or when service is restored.

(b) "No Smoking" signs. The fire ~~marshal~~ inspector shall post "No Smoking" signs on any premises where conditions exist which make smoking a fire hazard. No person shall smoke in an area designated nor shall remove or destroy a "No Smoking" sign.

(c) Fire hydrants. The developer and/or builder of any residential dwelling and/or development other than one- and two-family dwellings, as defined in the town's zoning ordinance must provide a water and fire hydrant system for the dwelling or development as approved by the fire ~~marshal~~ inspector.

(Ord. No. 83-0035, § 7, 6-7-83)

Cross References: Zoning, Ch. 36.

(d) Hydrant map. The town shall create and maintain a map of public and private fire hydrants within the town and the extraterritorial jurisdiction area of Martins Point.

(e) Fire sprinkler systems. Structures with sprinkler systems shall cause them to be inspected by a certified sprinkler inspector each year. Reports of such inspections shall be kept on the premises and a copy forwarded to the fire inspector.

Sec. 14-38. Required permits and Certificates of fitness.

(a) A permit and a certificate of fitness ~~is~~ are required ~~by~~ of the responsible person conducting any of the following activities when such activities are conducted on a for-hire basis:

- (1) Use of any explosive material.
- (2) Any blasting or demolition activity.
- (3) Any fireworks display.
- (4) The ~~servicing or recharging~~ repair or testing of any portable or fixed fire extinguishing device or system.
- (5) The installation of any fire alarm, ~~or~~ fire communication system or fixed fire extinguishing device or system.
Exception: one and two family dwellings
- (6) ~~Any chimney sweep operation.~~ (7) Cleaning of ducts used for the removal of grease-laden vapors.

(b) A permit shall be obtained from the Code Enforcement Office and a copy of such certificate shall be filed with the fire ~~marshal~~ inspector prior to beginning any such work.

(c) Any person to whom a certificate has been granted shall upon request produce and show proper identification and the certificate to anyone for whom he/she seeks to render his/her services or to the fire ~~marshal~~ inspector.
(Ord. No. 83-0035, § 8, 6-7-83)

Secs. 14-39--14-64. Reserved.

DIVISION 2. OPEN BURNING*

Sec. 14-65. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beach: That land between the mean low ocean water mark and the primary dunes (the dunes closest to the ocean).

Bonfire: An outdoor fire having a total fuel area of more than three (3) feet in diameter and two (2) feet or more in height used for ceremonial purposes.

Business unit: A building or structure or any portion thereof used for the transaction of business or the rendering or receiving of professional services, including offices.

Contained fire: An outdoor fire where the fuel being burned is contained in a fireproof container such as an incinerator, burn barrel, outdoor fireplace or barbeque grill used for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

Dwelling unit: One (1) or more habitable rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Open burning: ~~Any fire started or set for the purpose of outdoor cooking, picnics or recreational purposes; the disposal of refuse, small accumulations of branches, brush, scrap lumber and other combustible materials resulting from routine house and land maintenance activities or the burning of large accumulations of brush, tree stumps and trunks or other large amounts of combustible~~

materials resulting from land clearing or building activities. The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudgepots and similar devices associated with safety. For purposes of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit escape of exhaust gas are open.

Recreational fire: An outdoor fire burning materials other than rubbish or yard debris where the fuel being burned is not contained in an incinerator, burn barrel, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of less than three (3) feet or less than two (2) feet in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

(Ord. No. 79-0013, § 20, 10-2-79; Ord. of 5-5-81)

Cross References: Solid waste, Ch. 26; camping, § 22-62 et seq.

Sec. 4-37. Fire prevention code amended.

Section 28.1, "Bonfires and Outdoor Rubbish Fires," of the fire prevention code adopted in this article is deleted and replaced by this division.

(Ord. No. 83-0035, § 5, 6-7-83)

Sec. 14-66. Exemptions.

The following activities involving open burning shall be exempt from the provisions of this division provided all fire safety precautions are observed, the burning is conducted under professional supervision and the activities are in the best interest of the community:

- (1) Fires built or set by the fire department for the training of its personnel.
- (2) Fires built or set in emergency situations, as designated in writing by the ~~mayor~~ town manager to dispose of combustible materials that cannot otherwise be reasonably removed.
- (3) Marsh burns supervised by the NC Forest Service for hazard mitigation purposes.
(Ord. No. 80-0015, 2-5-80; Ord. of 5-5-81)

Sec. 14-67. Beach fires.

It shall be unlawful for any person to start or set a ~~beach~~ fire of any kind on a beach.

Sec. 14-68. Combustible materials

It shall be unlawful for any person to build or set an open fire in any location except in the areas and under the conditions specified below:

- (1) The occupant of a permanent dwelling ~~or business unit~~ may, with a permit, set an open fire to burn small amounts of refuse, tree branches, brush and scrap lumber provided the burning is conducted within one hundred (100) feet of such dwelling ~~or business unit~~ and is confined within ~~(a) an enclosure from which burning material may not escape or (b) a~~ cleared and protected area upon which a watch is maintained and which is provided with adequate fire protection equipment at the immediate fire site. Adequate fire protection equipment is considered to be a charged hose line, shovel, rake, and loose sand or dirt with which to cover the fire.
- (2) The occupant of a permanent dwelling may build or set a ~~fire for the purpose of outdoor cooking provided such fire is confined within a permanent barbecue pit or in a commercially contained fire as defined above.~~ manufactured grill or similar device designed for outdoor cooking.

- (3) ~~Fires set for the purpose of disposal of large amounts of refuse, materials resulting from routine house and land maintenance, accumulations of brush, tree stumps and trunks or material resulting from land clearing or building activities will require a special permit that may be issued only after the proposed burning site and material to be burned have been inspected by the fire chief or his designee and it has been determined that burning operations can be safely conducted.~~ No fire of any type shall be built or set on unimproved property (any property where a permanent dwelling or business unit does not exist) until the site has been inspected and a permit issued by the fire inspector. ~~chief or his designee~~
- (4) All fires of the type described in this section must be attended by a competent person fourteen (14) years of age or older who must remain in attendance at the fire until it is completely extinguished. ~~Where appropriate, the person in charge must have in his or her possession a copy of the permit and must produce such document upon request of an official of the police department or fire company.~~
- (5) No fire of any type shall be built or set neither in a marina area or a picnic area nor in any other area owned by a Residential or Civic or other Owner's Association without a permit.
- (6) House occupants or landowners ~~or contractors~~ starting or setting fires as permitted ~~by subsections (1), (3) or (4)~~ above are responsible for assuring themselves that a prohibition against burning as stated in G.S 14-139, is not in effect.
- (7) Initial burning shall generally be allowed only between the hours of 9:00 a.m. and 6:00 p.m. but no combustible materials shall be added to the fire after 3:00 p.m., except that under favorable meteorological conditions, deviations may be granted by the fire inspector ~~chief or his designee~~.

(Ord. No. 80-0015, 2-5-80; Ord. of 5-5-81; Ord. No. 01-01-006, Pt. I, 1-2-01)

(8) It shall be unlawful for any person to start or set a bonfire.

(9) It shall be unlawful for any person to start or set a recreational fire.

(Ord. No. 79-0013, § 21, 10-2-79; Ord. No. 80-0015, 2-5-80; Ord. of 6-7-83, Part I)

Sec. 14-69. Prohibited items.

It shall be unlawful for any person to burn any materials that produce heavy dense smoke such as that generated by the burning of automobile tires, inner tubes, tar paper, asphalt, shingles, or by the burning of synthetic materials that produce irritating and/or hazardous fumes.

(Ord. No. 80-0015, 2-5-80; Ord. of 5-5-81)

Sec. 14-70. Permits.

(a) ~~Permits for open burning such as those described in section 4-40 may be issued by the fire chief, Southern Shores Volunteer Fire Department, or his designee, and~~ Any person proposing to set a fire other than those permitted in Section 4-38 and 4-40 (2) shall, before lighting such fire, obtain a permit from the fire inspector. The permit shall be obtained by applying to the office of the fire inspector and completing a permit application on a form supplied by the inspector. At the inspector's discretion, the permit may be obtained on the site of the proposed fire. A permit will authorize such burnings only on the date or dates specified in the permit.

(b) ~~Permits will be issued at no cost and in accordance with the provisions of this division,~~

~~and as stated on the permit form.~~ A fee may be charged for issuance of a permit as specified in the Town Fee Schedule.

- (c) Permits must be posted within 10 feet of the pavement in front of the property for which the permit is issued during the time of the burn and must be removed when the fire is extinguished, and returned to Town Hall.
- (d) Issuance of a permit may be denied during extremely dry periods, when the winds are, or are predicted to be, unfavorable at the proposed time of burning, or when a prohibition has been placed on open burning by the state governor or the department of natural and economic resources. Permits already issued may be cancelled or postponed under the foregoing conditions.

In case of postponement, a new permit will be issued without charge specifying a new date or dates for such burnings.

- (e) The fact that a permit has been issued in no way relieves the person from the responsibility for any damage resulting from the burning activity or from prosecution for violation of a prohibition on burning.
(Ord. No. 80-0015, 2-5-80; Ord. of 5-5-81; Ord. of 6-7-83)

Article IV. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article V: Effective Date

This Ordinance is effective immediately upon adoption.

Adopted this the 1st day of September 2009.

S E A L

Don Smith, Mayor

ATTEST:

VOTE: 5 Aye 0 Nay

Carrie Gordin, Town Clerk

Approved as to form:

Ben Gallop, Town Attorney